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Initiative Petition Information Sheet

Title of Petition An Act Promoting Excellence in Public Schools

Petition Number 11-20

(to be filled in by Attorney General's Office staff)

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Optional:

Will the proponents propose a summary by the Monday, 5 days after the petition-filing deadline?

☒ Yes

☐ No

Will the proponents submit a memo of law by the Friday 9 days after the petition-filing deadline?

☒ Yes

☐ No

Please note that the above information will be made available to the public and particularly to possible opponents of certification. The Proponent and Proponents' Attorney (if any) will receive copies of any materials submitted by the public regarding certification.

AGO Staff Person Receiving Petition

PS

(to be filled in by Attorney General's Office staff)

Date

8/3/2011

(to be filled in by Attorney General's Office staff)

An Initiative Petition for a Law

An Act Promoting Excellence in Public Schools

Be it enacted by the People, and by their authority:

SECTION 1. Section 1B of chapter 69 of the General Laws as appearing in the 2008 Official Edition is hereby amended by striking out the thirteenth paragraph and inserting in place thereof the following paragraph:-

For the purposes of this chapter and chapter 71, educator evaluation standards shall mean the standards and related provisions of 603 CMR 35.00, et seq. as amended from time to time. Educator evaluation standards and the comprehensive education evaluation system adopted by the board based on such standards shall serve as an exemplar for adoption or adaptation by districts pursuant to section 38 of chapter 71 for employees covered by the educator evaluation standards. Subject to appropriation for such purposes, the department, with approval from the board, shall develop a training program for evaluators that include methods to promote inter-rater reliability. The training program may be delivered by the department, school districts, or through a department approved provider.

SECTION 2. Section 38 of chapter 71 of the General Laws as appearing in the 2008 Official Edition is hereby amended by striking out the third, fourth, fifth and sixth paragraphs and inserting in place thereof the following five paragraphs:-

Performance standards for teachers and other school district employees shall be established by the school committee upon the recommendation of the superintendent, provided that where teachers are represented for collective bargaining purposes, all teacher performance standards shall be determined as follows. Each school district shall implement a comprehensive educator evaluation system no later than the school year which begins in calendar year 2013. A school district and the exclusive bargaining representative of its educators if any shall decide whether to implement the model evaluation system designed by the department pursuant to the board's educator evaluation standards or whether to develop an alternative evaluation system consistent with the scope and purpose of the board's educator evaluation standards. If the parties are unable to agree on an alternative evaluation system following a period of good faith collective bargaining, then the school committee shall implement the model system designed by the department. All alternative evaluation systems shall be submitted to the department for its review and approval prior to their implementation. If the department does not approve a school district's alternative evaluation system, the school district shall implement the model system designed by the department. Until a school district and the exclusive bargaining representative of its educators reach agreement on an alternative evaluation system and it receives approval from the department, the model system designed by the department shall serve as the evaluation plan. The results of such evaluations shall be used in decisions to hire, grant professional teacher status, transfer,

promote, lay off, dismiss, demote or remove an employee covered by the educator evaluation standards pursuant to sections 41, 42, 42B and 63. Any person subject to the educator evaluation standards who receives a summative rating of unsatisfactory on one or more standards may request a re-evaluation from a second evaluator. The school district shall create a list of at least 2 evaluators to serve as second evaluators. The school district shall provide the union with an opportunity to submit additional names of teacher evaluators who shall be available to serve as second evaluators and who shall be added to the list created and established by the school district. The school district and union shall collectively bargain the criteria used to add a teacher evaluator to the list. The school district will assign a second evaluator from the list. A teacher shall not challenge the selection of the second evaluator or his or her rating. Nothing in this section shall prohibit a school district and the exclusive bargaining unit of its educators from agreeing to a peer evaluation process as permitted under state regulations that could be used to meet requirements for the selection of second evaluators under this section.

If the second evaluator disagrees with the original evaluation, the superintendent shall make the final decision to require a directed improvement plan or not for the person. If no re-evaluation is requested or if the re-evaluation confirms a summative rating of unsatisfactory in one or more standards, the person shall be placed on a directed improvement plan that shall last no longer than one school year. After the improvement plan is completed, an evaluator shall determine if such person has achieved proficiency in all areas that were deemed unsatisfactory. If the evaluator determines that such proficiency was not achieved, such person may request a second evaluator. The school district shall select the second evaluator from the list established pursuant to this section. In no event shall the second evaluator be the same person who conducted any previous evaluations of the person. If the second evaluator disagrees with the original evaluation after the improvement plan is completed, the superintendent shall make the final decision as to whether the person has achieved proficiency in all areas that were deemed unsatisfactory.

Beginning with the 2013 school year, the superintendent shall require each evaluator in the school district to take the training program developed by the department pursuant to section 1B of chapter 69 before undertaking evaluations in the 2013 school year and future years. Evaluators shall only be required to complete the training program once. The department may, with the board's approval, require supplemental trainings for evaluators if substantive changes to the training program for evaluators are made.

Subject to appropriation, each school district shall be reimbursed in accordance with section 60 of chapter 15 for reasonable costs incurred for evaluator training and for conducting evaluations of employees covered by the educator evaluation standards.

SECTION 3. Section 41 of chapter 71 of the General Laws as appearing is hereby amended by striking out the first paragraph and inserting in place thereof the paragraph:-

For the purposes of this section and section 42, a teacher, school librarian, school adjustment counselor, school nurse, school social worker or school psychologist who has served in the public schools of a school district for 3 previous consecutive school years on a full-time basis shall be considered a teacher and shall be eligible for professional teacher status as provided in section 42, provided that the teacher has achieved ratings of proficient or exemplary on each performance standard and for overall educator

performance during his or her third consecutive school year of service. Teachers who have not achieved full-time status for 3 previous consecutive years owing to time away from work permissible under a collective bargaining agreement shall still be eligible for professional status provided that the teacher has completed at least 3 cumulative years of service and achieved ratings of proficient or exemplary on each performance standard and for overall educator performance during his or her third year of service. If a teacher does not receive the ratings required to be eligible for professional teacher status, the superintendent may, upon the recommendation of the principal, grant such teacher a 1 year extension of provisional status to achieve such ratings, provided that the extension is consistent with the best interests of the students and district. The superintendent may, upon the recommendation of the principal, award professional teacher status to a teacher who had previously attained professional teacher status in another school district, provided that the teacher voluntarily resigned or was honorably dismissed from the other district within a reasonable period before being hired by the current district and that the teacher achieves a rating of at least proficient on every standard and overall on his or her summative evaluation in his or her first year in the current school district. A teacher without professional teacher status shall be notified in writing on or before June fifteenth whenever such person is not to be employed for the following school year.

SECTION 4. Section 42 of said chapter 71 as so appearing is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

At the arbitral hearing, the teacher and the school district may be represented by an attorney or other representative, present evidence and call witnesses. The school district shall bear the burden of proving the grounds for dismissal consistent with this section. If the basis for the dismissal is incompetency or failure on the part of the teacher to satisfy teacher performance standards or if a teacher has received 2 summative ratings of unsatisfactory within a 5 year period, the district shall not be required to offer a second improvement plan following the second rating. A teacher with professional teacher status may seek review of a dismissal decision within thirty days after receiving notice of dismissal by filing a petition for arbitration with the commissioner. The arbitral hearing shall commence within 75 days of the notice of dismissal and conclude within 120 days of the notice of dismissal. These deadlines may be extended by the arbitrator for good cause shown but in no event longer than 45 days. The arbitrator shall issue her or his decision within 30 days of the close of the hearing. Evaluation documents developed pursuant to the educator evaluation standards shall be admissible, deemed to be substantial evidence and shall constitute prima facie evidence of the grounds for dismissal. Each party shall be allotted equal time to present its case in chief and rebuttal. In determining whether either party has proven grounds for dismissal consistent with this section, the arbitrator shall consider the best interests of the students in the district and the need for the elevation of performance standards and shall not consider a teacher's seniority or length of service. The school district and union shall have the right to collectively bargain an alternative decision-making body for the dismissal proceedings in the form of a review panel composed of teachers and principals with a history of exemplary performance ratings, provided all other factors associated with the dismissal hearing are consistent with those of the arbitral hearing described in this section. Unless the district and union agree on an alternative decision making body, the procedure described above shall govern all arbitral proceedings under this section.

SECTION 5. Said section 42 of said chapter 71 as so appearing is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

Neither this section nor section 41 shall affect the right of a superintendent to lay off teachers pursuant to reductions in force or reorganization resulting from declining enrollment or other budgetary reasons. The school committee, in consultation with the superintendent, shall establish the selection criteria for layoffs of principals, teachers, and other school district employees. Such selection criteria as applied to a person subject to the educator evaluation standards shall be primarily based on certifications, merit and ability, including results from performance evaluations, and other factors related to job performance and the best interests of the students in the school or district and secondarily on relevant experience and seniority or length of service. If 2 or more educators are of equal certifications, merit and ability, including results of performance standards, seniority shall be the deciding factor.

SECTION 6. Section 42B of said chapter 71 as so appearing is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph: -

The provisions of this chapter relating to school personnel granted certificates in accordance with section 38G shall apply to all such school personnel employed by regional school districts. Any such school personnel who have provisional or professional teacher status or other rights under section 41 in a particular school district, whose positions are superseded by reason of the establishment and operation of a regional school district, shall be elected to fill available positions primarily based on certifications, merit and ability, including results from performance evaluations, and other factors related to job performance and the best interests of the students in the school or district, and secondarily on relevant experience and seniority or length of service, providing both the principal and teacher agree on such election or assignment, but if 2 or more of such teachers are of equal certifications, merit and ability, including results of performance standards, seniority shall be the deciding factor. If elected the person shall be employed with the same provisional or professional teacher status by the regional school district.

SECTION 7. Section 42B of said chapter 71 as so appearing is hereby amended by striking out the fourth paragraph.

SECTION 8. Said section 42B of said chapter 71 as so appearing is hereby amended by striking the seventh paragraph and inserting in place thereof the following paragraph:-

Any such school personnel, employed by a regional school district, whose position is abolished or eliminated by reason of the disestablishment and discontinuance of the regional school district or the withdrawal of a member community from such district shall be employed by one of the withdrawing city or town school committees, and if any such personnel have such status, such personnel shall be employed by such city or town, school committee with the same status. In the event that there are not sufficient teaching positions available in the withdrawing city or town school systems, such personnel shall be offered the available positions primarily based on certifications, merit and ability, including results from performance evaluations, and other factors related to job performance and the best interests of the students in the school or district, and secondarily on relevant experience and seniority or length of service, providing both the

principal and teacher agree on such selection or assignment, but if 2 or more educators are of equal certifications, merit and ability, including results of performance standards, seniority shall be the deciding factor. All such personnel so employed by a city or town school district shall initially be placed on the salary schedule of such city or town school district so that the compensation paid to such school personnel shall not be less than the compensation received by such school personnel while previously employed by the regional school district. Such school personnel also shall be given credit by the city or town school committee for all accumulated sick time, accumulated time towards service with such status, and accumulated sabbatical leave years of service, and for terminal compensation due such school personnel on the termination of such service.

SECTION 9. The first paragraph of section 59B of said chapter 71 as so appearing is hereby amended by striking out the third sentence and inserting in place thereof the following five sentences :-

Principals employed under this section shall be responsible, consistent with district personnel policies and budgetary restrictions and subject to the approval of the superintendent, for hiring all teachers, athletic coaches, instructional or administrative aides, and other personnel assigned or transferred to the school and, where applicable, shall be primarily based on certifications, merit and ability, including results from performance evaluations, and other factors related to job performance and the best interests of the students in the school or district, and secondarily on relevant experience and seniority or length of service, and provided that both the principal and the educator mutually agree to the hiring and assignment. If 2 or more are of equal certifications, merit and ability, including results of performance standards, seniority shall be the deciding factor. Principals employed under this section shall be responsible for terminating such personnel subject to review and prior approval by the superintendent and subject to the provisions of this chapter. If a teacher refuses the only available position to him or her in the district, provided that the principal has consented to his or her placement, the teacher will not be entitled to paid leave. The school district and the union shall collectively bargain the amount of paid leave provided to the teacher if he does not find a mutually agreed upon position, provided that no teacher shall be entitled to paid leave for more than 12 months after the teacher is unable to secure a mutually agreed upon position at a school in the school district.

SECTION 10. As used in this act, the term school district shall also mean regional school district and the term regional school district shall also mean school district.

SECTION 11. This act shall take effect on January 1, 2013. No collective bargaining agreements entered into prior to that date shall be altered, impaired or otherwise affected by any conflicting provision of this act. The application of this act to persons subject to the educator evaluation standards shall be subject to collective bargaining or a collective bargaining agreement only where expressly permitted in this act and in the furtherance of the full implementation of the purpose of this act, which is to institute a comprehensive, fair and rigorous educator evaluation system that provides the basis for merit-based decision-making in the hiring, retention, transfer, remediation and dismissal of teachers and school administrators.

Signers of this Initiative Petition for a Law entitled an Act Promoting Excellence in Public Schools

I have personally reviewed the final text of this Initiative Petition for a Law, I fully subscribe to its contents, I agree to be one of the original signers of this petition, and I am a registered voter in Massachusetts.

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